

G. P. Electric Corp. and Local 25, International Brotherhood of Electrical Workers, AFL-CIO.
Case 29-CA-18661

June 20, 1996

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND FOX

On January 25, 1996, Administrative Law Judge Robert T. Snyder issued the attached decision. The Respondent and the General Counsel filed exceptions and supporting briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings¹ and conclusions² and to adopt the recommended Order as modified and set forth in full below.³

¹The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enf'd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the judge's findings.

Contrary to the Respondent's contention in its exceptions, the judge, in the last paragraph of sec. II.A of his decision, properly found un rebutted Drenckhahn's testimony about statements made by George Possas to Drenckhahn regarding the Respondent's attempts to mislead the Union as to the identity and location of its work projects, and concerning George Possas' displeasure at the Union's organizing efforts. In addition, the Respondent asserts that, in crediting Drenckhahn's testimony regarding threats of physical violence and blackballing made against him, the judge improperly found that these allegations were un rebutted. We note that the judge correctly stated that Michael Possas denied ever threatening Drenckhahn with physical violence because of his union activity. The judge, however, mistakenly stated that Michael Possas did not deny threatening to blackball Drenckhahn in the electrical industry. We find that this inadvertent error does not undercut the judge's bases for crediting Drenckhahn's version of this conversation over that of Michael Possas.

²Because the record before us is insufficient to make a determination, we leave to the compliance stage of the proceeding the Respondent's contention that it has made a valid offer of reinstatement to discriminatee Ronald Drenckhahn.

We find no merit in the Respondent's contention that the judge erred in finding that Foreman Gerald Gajewski's personal record book was never produced for examination by the General Counsel. The Respondent's claim is not supported by any evidence or offer of proof.

³The General Counsel filed an exception limited to the judge's inadvertent failure to include a cease-and-desist provision concerning Drenckhahn's unlawful discharge. We shall modify the recommended Order accordingly. We shall also modify the judge's recommended Order in accordance with our recent decision in *Indian Hills Care Center*, 321 NLRB No. 23 (May 8, 1996).

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified and set forth in full below and orders that the Respondent, G. P. Electric Corp., Deer Park, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating its employees concerning their activities on behalf of Local 25, International Brotherhood of Electrical Workers, AFL-CIO.

(b) Threatening its employees with physical violence or threatening to prevent them from obtaining future employment in the electrical field because of their membership in, activities on behalf of, and sympathies for the Union.

(c) Discharging or otherwise discriminating against any employee for supporting the Union or any other labor organization in regard to their hire or tenure of employment or any term or condition of employment.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Ronald Drenckhahn full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

(b) Make Ronald Drenckhahn whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, in the manner set forth in the remedy section of the judge's decision.

(c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Ronald Drenckhahn, and within 3 days thereafter notify him in writing that this has been done and that the discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its Deer Park, New York facility copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Re-

⁴If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

spondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 27, 1995.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

WE WILL NOT interrogate our employees concerning their union activities or threaten them with physical violence or threaten to prevent them from obtaining future employment in the electrical field because of their membership in, activities on behalf of, and sympathies for Local 25, International Brotherhood of Electrical Workers, AFL-CIO.

WE WILL NOT discourage membership in Local 25, International Brotherhood of Electrical Workers, AFL-CIO, or any other labor organization, by discharging or otherwise discriminating against our employees in regard to their hire or tenure of employment or any term or condition of employment.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Ronald Drenckhahn full reinstatement to his former job or, if that job no longer exists,

to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL make Ronald Drenckhahn whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge of Ronald Drenckhahn and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the discharge will not be used against him in any way.

G. P. ELECTRIC CORP.

Sharon Chau, Esq., for the General Counsel.

Harry Raptakis, Esq., for the Respondent.

Andrew Bub, Organizer for the Charging Party.

DECISION

STATEMENT OF THE CASE

ROBERT T. SNYDER, Administrative Law Judge. This case was tried before me on July 17, 1995, in Brooklyn, New York. The complaint alleges that G. P. Electric Corp. (G. P. Electric or Respondent) unlawfully interrogated and threatened, and then discharged, its employee, Ronald Drenckhahn, respectively, in violation of Section 8(a)(1) and (3) of the Act. Respondent filed an answer denying the alleged violations.

The parties were provided full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Posttrial briefs have been filed by counsel for the General Counsel and Respondent and they have been carefully considered. On the entire record in the case, including my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. JURISDICTION AND LABOR ORGANIZATION STATUS

At all times material here, Respondent, a New York corporation, with its principal office and place of business located in Deer Park, New York, has been engaged in the non-retail construction business. During the past year, which period is representative of its annual business operations generally, Respondent, in the course and conduct of its business operations described, purchased and received at its Deer Park facility and at its jobsites located in the State of New York goods and materials valued in excess of \$50,000 directly from points outside the State of New York and from other enterprises located within the State of New York, each of which had purchased and received goods and materials directly from points outside the State of New York. For purposes of this proceeding, Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. The Respondent also admits for this proceeding and I also find that Local 25, International Brotherhood of Electrical Workers, AFL-CIO

(Local 25, IBEW, Local 25, or the Union) is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Respondent's Nonunion Status, Alleged Hostility to and Avoidance of Union Organization and Employee Ronald Drenckhahn's Union Affiliation and Activity

Respondent performs services as an electrical contractor on various construction projects. It was formed as a business in 1981 and has always operated as a nonunion company. Ronald Drenckhahn was a member of Local 25, IBEW between 1984 and 1989, and recently, following his separation from Respondent in May 1994, has rejoined the Union, receiving a temporary card in July, and permanent membership in December.

From 1991 to May 1994, Drenckhahn was employed by G. P. Electric as an electrician mechanic. Although describing himself as a foreman, it appeared that as an experienced mechanic Drenckhahn worked from time to time without immediate supervision as a senior employee to junior or apprentice electricians, and received a higher salary than other electrical employees. Respondent has not alleged Drenckhahn as a supervisor within the meaning of Section 2(11) of the Act and the record evidence does not support such a finding. At all times material here, Michael Possas has been Respondent's president.

Early in 1993, while Drenckhahn was working for G. P. Electric on a job at a European American Bank (EAB) site in Huntington, New York, Jack Jilday, a Local 25 delegate, approached him. Jilday asked Drenckhahn for whom he was working. Drenckhahn had been given instructions by Respondent that when he was approached by any third party, particularly union representatives, and asked for the name of his employer, to give either the name De Fazio Electric or Helm Electric, both union electrical contractors. On this occasion, Drenckhahn told Jilday he couldn't give him a definite answer. He then telephoned his office, and George Possas, Michael's father and Respondent's president until some time in 1992 or 1993 and thereafter a consultant to his son in the business, told Drenckhahn to say he was working for a different contractor than G. P. Electric, De Fazio Electric. George Possas also told Drenckhahn to bag his tools up and leave the job because the job was supposed to be done under a union contract and it was not being done that way at the time.

Before leaving the site, Jilday asked what he was doing working under G. P.'s name for a different contractor and suggested Drenckhahn come to the union hall and explain what was going on with respect to the work.

The following day, Drenckhahn went to the union hall and spoke to a couple of delegates, Don Fiore and Andy Bub, with whom he was familiar from his past union membership. He told them he was working for a nonunion contractor and was told when he went on jobs to say he was working for either De Fazio or Helm, both union contractors. Drenckhahn also told them what jobs he had been working on, where, and who he was working for. They asked him if he was interested in organizing the shop, to have it become a union shop. Drenckhahn said yes, he was. They then asked him to keep a record of what jobs he worked on, the names of the jobs and what contractor he was supposed to be working for

each day, and keep them informed of this information every couple of months.

Thereafter, Drenckhahn maintained this information in a daily black calendar book. He kept this log every day in his personal van which he used to commute to jobs. In 1994 Drenckhahn started using a new 1994 calendar for his daily log entries.

Also, in 1993, Drenckhahn was assigned by G. P. Electric to work at a warehouse in Brooklyn owned or operated by Admiral Plastic where Respondent was engaged in a large retro fit job, as an electrical subcontractor for a contractor known as EMC. The work hours ran from 4 p.m. until 8 a.m. George Possas had these hours assigned because, as he told Drenckhahn, he didn't want the Local 3 electrical union with jurisdiction in New York City to know Respondent was working at that location on such a large job.

On another occasion, in either January or February 1994, while Drenckhahn was working for Respondent in a building on Franklin Avenue in Garden City, New York, George Possas came to the worksite. He told Drenckhahn he had heard through another contractor that the Union was pushing on getting his shop to become organized and he was awfully upset when he heard that. He also disclosed that he had learned that the Union was on top of him, and was curious as to what jobs he was doing and was watching his work. This displeased him. George Possas said he was curious as to who was informing the Union but he did not think that it was Drenckhahn.

Although Michael Possas testified briefly as a witness called by Respondent, he was not asked and did not deny Respondent's false attempts to mislead the Union as to the identity and location of its work projects and sites, nor did he comment about the hostility his father had expressed to union organization of his work force. George Possas did not testify, and thus the comments attributed to him by Drenckhahn stood un rebutted on this record.

B. The Circumstances Surrounding Employee Ronald Drenckhahn's Separation from Employment in May 1994

On Monday, May 23, 1994, according to Drenckhahn, he was working with other G. P. Electric employees at a DHL warehouse in Farmingdale, New York. Drenckhahn's personal vehicle, a van, was parked in the back of the building. While on coffeek break in the morning, Drenckhahn went to his van and began making entries in his daily log which he had agreed to supply periodically to the Union. Another employee, Jeremy Gajewski, the son of Company Foreman and Supervisor Gerald Gajewski, came over, and after Drenckhahn had put the logbook down, grabbed it and asked, what are you writing down there? Drenckhahn grabbed it back out of Jeremy's hands, told him it was none of his business, and then threw the book onto the console of his van. When Drenckhahn returned to his van later in the afternoon, the logbook was gone. He normally did not lock his van and did not do so this day as he went to it periodically to get his personal tools used on the job and was able to watch it parked at the open bay door to the warehouse.

The following day, Tuesday, May 24, Drenckhahn was called from the job at Farmingdale, by a beeper before lunch, from Liz, the office secretary, to which he responded on a pay phone, informing him to come in to speak to Mike, and

he packed up his tools and went to the Deer Park office. He first passed Liz in an outer office and then met with Mike Possas who told Drenckhahn he was upset with him and his Dad was upset with him because he was talking to the Union. They wanted to know what he was telling the union delegates about their contracts that G. P. Electric was doing at the time. Mike told Drenckhahn his dad was very upset that he was informing the Union on what jobs Respondent was doing and he, his father, was to the point where he was ready to rip Drenckhahn's head off. Mike repeated he was awfully upset that he knew Drenckhahn was the one who was telling the Union what jobs G. P. Electric was working on. He then handed Drenckhahn a paycheck and told him to have a nice life. Possas added, if he could help it, Drenckhahn wouldn't be working any where else in the electrical field and he was not to use Possas as a reference. The paycheck covered pay for Monday and Tuesday, with normal deductions, Drenckhahn having received pay for the prior week on Monday, as was the practice. While this conversation took place, the door to Possas' office was closed.

During his cross-examination, Drenckhahn acknowledged that he had not applied for unemployment compensation after his separation from G. P. Electric. However, Drenckhahn also noted that he had never filed for unemployment insurance, even when unemployed, as he was at the time of his testimony. As long as he was capable of working he had never availed himself of such benefits.

Drenckhahn also now related, in response to questioning, that after his discharge he had returned to the Farmingdale worksite to return his beeper and a power drill, property of G. P. Electric. While at the site he talked to one employee, named Armand. On this day, Drenckhahn had driven his own vehicle, a van, to and from work and Respondent's office. He also subsequently telephoned Respondent a number of times in April or May 1995, unsuccessfully trying to reach Michael and leaving messages with Liz each time, after Respondent had written him offering reemployment.

Respondent was able to draw from one of Drenckhahn's prehearing affidavits that it was Mike Possas who told him that the late work hours for the Admiral Plastic job were scheduled to prevent Local 3 from learning of the job. He had previously testified that George Possas had told him. Drenckhahn explained that George Possas had instructed him to work the late hours and Michael told him not to let "Local 3 guys" see the workers on the job but that both father and son had expressed concern about losing the job if Local 3 found out. I find Drenckhahn's explanation reasonable and conclude there was no fatal variance between his affidavit and his testimony.

Although in a pretrial affidavit Drenckhahn mentions that when he called Liz from the Farmingdale job she told him Mike wanted to see him to send him to another job, Drenckhahn could only recall being asked to return to see Mike. Drenckhahn was asked for the first time on cross-examination about a statement he may have made at his exit interview about going to work for his brother. Drenckhahn denied ever saying that but acknowledged he may have spoken about working with his brother at the exit interview. Drenckhahn explained that his older brother was a Local 25 journeyman electrician, employed by a firm called Gasoline Installations and his younger brother was a Local 3 apprentice. Neither had ever been self-employed. After Mike Possas

told Drenckhahn not to use him as a reference to obtain future employment, he told Possas he could always go to work somewhere else; if he had to he'd work where his brother works by getting a union referral to that firm. He had been an electrician for 15 years and was not worried about getting a job.

On his separation from Respondent, in fact, Drenckhahn did not obtain employment for at least 5 weeks, until July 1994. In fact, it was not until July 1994, when the Union placed him to work for a union contractor as a maintenance mechanic on a temporary basis, that he was paid only \$15 per hour without benefits, \$4 less than his earnings at Respondent, as the least senior employee. Drenckhahn is fully credited on his version of the conversation.

G. P. Electric President Michael Possas testified during the presentation of Respondent's defense. Possas claimed Drenckhahn quit under the following circumstances. Drenckhahn had not shown up for work on Wednesday, May 25, and Possas had him beeped several times but without success. Finally, Drenckhahn showed up at the office after lunch, sat down in Possas' office, and during some small talk told him he was going to work with his brother. There was no animosity and Possas told Liz to write him a check and that was all. Possas denied that the question of the Union came up or that he ever threatened Drenckhahn with physical violence because of his union activity. Michael Possas did not deny ever threatening to blackball Drenckhahn in the electrical industry as testified to by Drenckhahn. Furthermore, it was not Michael Possas who Drenckhahn alleged threatened him with a head bashing but rather George Possas through his son's comments, and George Possas did not testify to deny his threat which his son passed on to the employee.

Possas provided no explanation from Drenckhahn as to why a senior and experienced employee who had no immediate prospect of other employment would want to quit a job which provided certain benefits described by another employee, Armand D'Avignon, and Drenckhahn. D'Avignon testified that he was surprised when Drenckhahn left the Company, because it was a good job and they worked through slack times without layoff. Drenckhahn noted that besides being out of work for over a month after his separation, at G. P. Electric there was no demand on how much work you had to do each day. There was no pressure to push; they worked hard but were not pushed or pressured to produce more than what they were doing. There was no contrary testimony offered by Respondent and these employee descriptions of the advantages of G. P. Electric employment are credited.

Unaccountably, Mike Possas asserted that while Drenckhahn was in his office on May 25, the two engaged in small talk during which the employee told him he was quitting. On cross-examination Possas could not recall any of the small talk other than Drenckhahn telling him he was going to work for his brother. It defies credibility that Mike Possas would not recall the surprising events of that day other than the employee's desire to quit to work for his brother.

Michael Possas' version of the events resulting in Drenckhahn's separation from employment makes no sense, is not logical or reasonable, and is not credited.

Respondent produced Elizabeth Innaco, the secretary Drenckhahn had identified as "Liz" who testified she had

been employed 14 years as the G. P. Electric secretary. Innaco denied that she had paged Drenckhahn to come to the office on May 24 or 25. She claimed that Drenckhahn came in to the office at about 1:30 p.m. on May 25 and went in to speak with Michael. She overheard Drenckhahn tell Michael that he had another job. The door separating her desk from the office was open. Michael then instructed her to write out a check for him, which she did, the check representing pay for 2 days, Monday and Tuesday of that week. The check was for \$288. Innaco swears she then made the following entry on Drenckhahn's payroll sheet, "(5/25/94 PAID RON 288.00 FOR 16 00 hrs.)" She swore she also wrote at the top of the sheet following DATE LEFT, "Quit 5/25/94." Innaco further testified that as she prepared and gave him the check Drenckhahn told her he'd gotten a job working for his brother. After May 25, Drenckhahn telephoned Respondent, Innaco answered, and he asked to speak with Michael. When she asked if he was coming back to work, he said he didn't really want to.

It is evident that Innaco did not hear or was not prepared to testify to hearing any of the conversation between Possas and Drenckhahn which concluded with the employee being separated from employment. Thus, the only testimony directly contradicting Drenckhahn's testimony that he was fired, comes from Mike Possas who I have discredited. Neither did Innaco testify what led her to write that the employee quit on his payroll sheet. She did not attribute her understanding of Drenckhahn's quitting to anything Possas may have said. His instruction to her to prepare a check for 2 days' work is consistent with Drenckhahn's own testimony. Possas' and Innaco's dates are off by 1 day. I credit Drenckhahn, over both Possas' and Innaco's conflicting testimony as well as Innaco's self-serving writing, that he was called in to the office by a page from Innaco on Tuesday, May 24. It is noteworthy that Respondent's canceled check for 2 days' pay to Drenckhahn could have been produced by it to corroborate the date of his payment, but Respondent chose not to do so.

It appears that Respondent seized on Drenckhahn's comments about finding work at his brother's union firm to create a fraudulent ground for Drenckhahn to quit. Innaco's comment about Drenckhahn working for his brother is not believable. I can only conclude that Innaco's long association with the Possas' father and son as their principal or sole secretary contributed to her willingness to fabricate certain dates and events. Yet, she was careful not to attribute direct statements of a voluntary separation to either Drenckhahn or Possas.

Respondent also called Jeremy Gajewski as a witness. He testified that his father is Respondent's foreman. Gajewski claimed that the last few days Drenckhahn was on the DHL job in Farmingdale he had been driven to and from work by Armand D'Avignon because his own car had broken down. Gajewski also denied that he ever saw Drenckhahn writing in a notebook or that he ever took such notes or advised the Possas' of them. Armand D'Avignon, also called as a witness by Respondent, testified at variance to Gajewski. D'Avignon recalled Drenckhahn on his last day coming on the job in his car and beeping his horn. D'Avignon gave him some tools and Drenckhahn said he was leaving the job without explaining why. D'Avignon testified he expressed surprise because Drenckhahn was a good worker and the condi-

tions on the job were good, they could work at their own pace and take little breaks. Drenckhahn also had never previously spoken to him about leaving the job although they were often working on the same job and were good friends. D'Avignon could not recall the vehicle Drenckhahn drove to the jobsite his last day, but did not believe it was a van although he was aware that Drenckhahn was getting a van before he left the job.

The young Gajewski is not credited with respect to his denial that he ever saw Drenckhahn making notes or took his notebook to pass along to Possas. Having previously credited Drenckhahn that Mike Possas accused him of informing the Union as to G. P. Electric jobs at his exit interview a day following the theft of his notebook, I find that Gajewski took the notebook and informed Respondent of its contents. The timing of these events, and the interaction with Gajewski the prior day, all support the inference I draw that Respondent learned from Gajewski of Drenckhahn's union activities within a day of separation from the work force. Gajewski's efforts to slant his testimony in favor of Respondent is most evident in his willingness to lie as to how Drenckhahn got to and from work his last days on the DHL job.

Gerald Gajewski, the company foreman and supervisor who acknowledged having the authority to hire and fire, also testified for Respondent that Drenckhahn worked both Monday and Tuesday, May 23 and 24, at Farmingdale, and then on May 25 did not show up for work until midday when he came by in a four-door white car and beeped Armand to come out. Gajewski was willing to volunteer two comments that Armand D'Avignon refused to testify about. One was that Drenckhahn did not own a van. This flies in the face of both Drenckhahn's and D'Avignon's testimony. The second, more significant, was that Armand told him that Drenckhahn had quit and was going to work for his brother. D'Avignon was firm that Drenckhahn never told him why he was leaving the job or the circumstances under which he left. Yet, Gajewski was willing to volunteer false testimony consistent with both Possas' and Innaco's deceptions to strengthen Respondent's defense.

During his cross-examination, Gajewski was obliged to recant his prior firm testimony, admitting now that he had no actual knowledge whether Drenckhahn owned a van. Gajewski further testified that his personal logbook entries for the week of May 23, 1994, which he used to refresh his recollection prior his testimony, would corroborate his testimony about Drenckhahn's worktime that week, yet he was not able to produce the book at the hearing, and there is no evidence that he ever later produced it for examination by the General Counsel. Gajewski's recital regarding Drenckhahn's May 23 and 24 worktime and May 25 appearance at the Farmingdale worksite is not credited.

Analysis and Conclusions

It is clear from the foregoing findings of fact that Respondent seized on its unexpected discovery of Ronald Drenckhahn's union involvement, made manifest in the logbook he had kept for the Union of Respondent's worksites, projects, and false union business affiliations which came to its attention, to fire him precipitately and without warning and without taking any precautions to shield its true unlawful motive. Respondent did not dispute its deep hostility to entering a union relationship and in discussions with

Drenckhahn its chief officials voiced their obvious abhorrence of union affiliation and their fear that their work projects and devices to avoid the Union were being observed and reported to the Union. When these fears proved to be well grounded and the identity of the union informant became known to them Respondent took immediate steps to rid itself of the culprit. In so doing, its president, on behalf of Respondent, committed multiple violations of the Act. By questioning Drenckhahn at his exit interview as to what he was telling the Union about G. P. Electric contracts, Respondent unlawfully interrogated the employee about his union activities. By passing along his father's threat to rip Drenckhahn's head off, Michael Possas, as Respondent's president and agent and on its behalf, threatened Drenckhahn with physical violence because of his union activities in further violation of the Act. By telling Drenckhahn that if he could help it, the employee wouldn't be working in the electrical field, Respondent, by its president and agent, Michael Possas, committed a separate independent violation of threatening an employment black ball in the electrical industry in violation of the Act.

The culmination of Respondent's illegal conduct was its discharge of employee Drenckhahn at this meeting which was principally motivated by his union activities, adherence, and sympathies. In particular, by relying exclusively on its fraudulent defense that he quit, Respondent has failed to show that it would have discharged Drenckhahn even in the absence of his protected conduct. *Wright Line*, 251 NLRB 1083 (1980), *affd.* 662 F.2d 899 (1st Cir. 1981), *cert. denied* 455 U.S. 989 (1982).

CONCLUSIONS OF LAW

1. Respondent G. P. Electric Corp. is an employer within the meaning of Section 2(2), (6), and (7) of the Act.
2. Local 25, International Brotherhood of Electrical Workers, AFL-CIO is a labor organization within the meaning of the Act.
3. By interrogating its employees concerning their membership in, activities on behalf of, and sympathies for the Union, by threatening its employees with physical violence because of their activities on behalf of the Union, and by

threatening to prevent its employees from obtaining future employment in the electrical field, because of their membership in, activities on behalf of, and sympathies for the Union, the Respondent has interfered with, restrained, and coerced its employees in the exercise of their Section 7 rights in violation of Section 8(a)(1) of the Act.

4. By discharging employee Ronald Drenckhahn because of his membership in, support of, and activities on behalf of Local 25, Respondent has been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, in violation of Section 8(a)(1) and (3) of the Act, I shall recommend that it cease and desist therefrom and take certain affirmative actions which are necessary to effectuate the policies of the Act.

I shall recommend that Respondent offer Ronald Drenckhahn reinstatement to his former position or, if no longer available, to a substantially equivalent position, without prejudice to his seniority and other rights and privileges, and make him whole for any loss of earnings and other benefits he may have suffered as the result of Respondent's unlawful discrimination against him. Such amounts shall be computed in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), and shall be reduced by net interim earnings, with interest computed in accordance with *New Horizons for the Retarded*, 283 NLRB 1173 (1987).¹ I shall also recommend that Respondent expunge from its files any references to Drenckhahn's unlawful discharge and notify him in writing that this has been done and that the discharge will not be used against him in any way.

[Recommended Order omitted from publication.]

¹Under *New Horizons*, interest is computed at the "short-term Federal rate" for the underpayment of taxes as set out in the 1986 amendment to 26 U.S.C. § 6621.